

Introduced by Senator Hollingsworth

February 23, 2007

An act to amend Sections 1523.1, 1566.2, and 1566.3 of, and to add Section 1566.9 to, the Health and Safety Code, relating to community care facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 914, as introduced, Hollingsworth. Community care facilities: housing sex offenders: business licenses.

Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of community care facilities by the State Department of Social Services. Existing law prohibits a local jurisdiction from imposing any business license, fee, or tax for the privilege of operating a community care facility that serves 6 or fewer persons. A violation of these provisions is a crime.

This bill would, instead, allow a local jurisdiction that requires any type of business to obtain a business license to require that a community care facility obtain a business license if the facility houses any adult or juvenile sex offender who is under the supervision of the Department of Corrections and Rehabilitation, or whose use of the facility is required pursuant to a court order related to an offense committed by the adult or juvenile. By changing the definition of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 1523.1 of the Health and Safety Code is amended to read:

1523.1. (a) An application fee adjusted by facility and capacity shall be charged by the department for the issuance of a license. After initial licensure, a fee shall be charged by the department annually on each anniversary of the effective date of the license. The fees are for the purpose of financing the activities specified in this chapter. Fees shall be assessed as follows:

Fee Schedule				
Facility Type	Capacity	Initial Application	Annual	
Foster Family and Adoption Agencies		\$2,500	\$1,250	
	Adult Day Programs			
	1–15	\$150	\$75	
	16–30	\$250	\$125	
	31–60	\$500	\$250	
	61–75	\$626	\$313	
	76–90	\$750	\$375	
Other Community Care Facilities	91–120	\$1,000	\$500	
	121+	\$1,250	\$625	
	1–3	\$375	\$375	
	4–6	\$750	\$375	
	7–15	\$1,126	\$563	
	16–30	\$1,500	\$750	
	31–49	\$1,876	\$938	
	50–74	\$2,252	\$1,126	
	75–100	\$2,628	\$1,314	
	101–150	\$3,004	\$1,502	
	151–200	\$3,502	\$1,751	
	201–250	\$4,000	\$2,000	
	251–300	\$4,500	\$2,250	
	301–350	\$5,000	\$2,500	
	351–400	\$5,500	\$2,750	
	401–500	\$6,500	\$3,250	

Fee Schedule

Facility Type	Capacity	Initial	
		Application	Annual
	501–600	\$7,500	\$3,750
	601–700	\$8,500	\$4,250
	701+	\$10,000	\$5,000

(b) (1) In addition to fees set forth in subdivision (a), the department shall charge the following fees:

(A) A fee that represents 50 percent of an established application fee when an existing licensee moves the facility to a new physical address.

(B) A fee that represents 50 percent of the established application fee when a corporate licensee changes who has the authority to select a majority of the board of directors.

(C) A fee of twenty-five dollars (\$25) when an existing licensee seeks to either increase or decrease the licensed capacity of the facility.

(D) An orientation fee of fifty dollars (\$50) for attendance by any individual at a department-sponsored orientation session.

(E) A probation monitoring fee equal to the annual fee, in addition to the annual fee for that category and capacity for each year a license has been placed on probation as a result of a stipulation or decision and order pursuant to the administrative adjudication procedures of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(F) A late fee that represents an additional 50 percent of the established annual fee when any licensee fails to pay the annual licensing fee on or before the due date as indicated by postmark on the payment.

(G) A fee to cover any costs incurred by the department for processing payments including, but not limited to, bounced check charges, charges for credit and debit transactions, and postage due charges.

(H) A plan of correction fee of two hundred dollars (\$200) when any licensee does not implement a plan of correction on or prior to the date specified in the plan.

1 (2) Foster family homes shall be exempt from the fees imposed
2 pursuant to this subdivision.

3 (3) Foster family agencies shall be annually assessed eighty
4 dollars (\$80) for each home certified by the agency.

5 (4) ~~No~~—*Except as provided in Section 1566.9, no* local
6 jurisdiction shall impose any business license, fee, or tax for the
7 privilege of operating a facility licensed under this chapter which
8 serves six or fewer persons.

9 (c) (1) The revenues collected from licensing fees pursuant to
10 this section shall be utilized by the department for the purpose of
11 ensuring the health and safety of all individuals provided care and
12 supervision by licensees and to support activities of the licensing
13 program, including, but not limited to, monitoring facilities for
14 compliance with licensing laws and regulations pursuant to this
15 chapter, and other administrative activities in support of the
16 licensing program, when appropriated for these purposes. The
17 revenues collected shall be used in addition to any other funds
18 appropriated in the Budget Act in support of the licensing program.

19 (2) The department shall not utilize any portion of these revenues
20 sooner than 30 days after notification in writing of the purpose
21 and use of this revenue, as approved by the Director of Finance,
22 to the Chairperson of the Joint Legislative Budget Committee, and
23 the chairpersons of the committee in each house that considers
24 appropriations for each fiscal year. The department shall submit
25 a budget change proposal to justify any positions or any other
26 related support costs on an ongoing basis.

27 (d) A facility may use a bona fide business check to pay the
28 license fee required under this section.

29 (e) The failure of an applicant or licensee to pay all applicable
30 and accrued fees and civil penalties shall constitute grounds for
31 denial or forfeiture of a license.

32 SEC. 2. Section 1566.2 of the Health and Safety Code is
33 amended to read:

34 1566.2. ~~A~~*Except as provided in Section 1566.9, a residential*
35 ~~facility, which~~ *that* serves six or fewer persons shall not be subject
36 to any business taxes, local registration fees, use permit fees, or
37 other fees to which other family dwellings of the same type in the
38 same zone are not likewise subject. Nothing in this section shall
39 be construed to forbid the imposition of local property taxes, fees
40 for water service and garbage collection, fees for inspections not

1 prohibited by Section 1566.3, local bond assessments, and other
2 fees, charges, and assessments to which other family dwellings of
3 the same type in the same zone are likewise subject. Neither the
4 State Fire Marshal nor any local public entity shall charge any fee
5 for enforcing fire inspection regulations pursuant to state law or
6 regulation or local ordinance, with respect to residential facilities
7 which serve six or fewer persons.

8 For the purposes of this section, “family dwellings,” includes,
9 but is not limited to, single-family dwellings, units in multifamily
10 dwellings, including units in duplexes and units in apartment
11 dwellings, mobilehomes, including mobilehomes located in
12 mobilehome parks, units in cooperatives, units in condominiums,
13 units in townhouses, and units in planned unit developments.

14 SEC. 3. Section 1566.3 of the Health and Safety Code is
15 amended to read:

16 1566.3. (a) Whether or not unrelated persons are living
17 together, a residential facility that serves six or fewer persons shall
18 be considered a residential use of property for the purposes of this
19 article. In addition, the residents and operators of such a facility
20 shall be considered a family for the purposes of any law or zoning
21 ordinance~~which~~ *that* relates to the residential use of property
22 pursuant to this article.

23 (b) For the purpose of all local ordinances, a residential facility
24 that serves six or fewer persons shall not be included within the
25 definition of a boarding house, rooming house, institution or home
26 for the care of minors, the aged, or the mentally infirm, foster care
27 home, guest home, rest home, sanitarium, mental hygiene home,
28 or other similar term which implies that the residential facility is
29 a business run for profit or differs in any other way from a family
30 dwelling.

31 (c) This section shall not be construed to prohibit any city,
32 county, or other local public entity from placing restrictions on
33 building heights, setback, lot dimensions, or placement of signs
34 of a residential facility~~which~~ *that* serves six or fewer persons as
35 long as~~such~~ *the* restrictions are identical to those applied to other
36 family dwellings of the same type in the same zone.

37 (d) This section shall not be construed to prohibit the application
38 to a residential care facility of any local ordinance that deals with
39 health and safety, building standards, environmental impact
40 standards, or any other matter within the jurisdiction of a local

1 public entity if the ordinance does not distinguish residential care
2 facilities~~which~~ *that* serve six or fewer persons from other family
3 dwellings of the same type in the same zone and if the ordinance
4 does not distinguish residents of the residential care facilities from
5 persons who reside in other family dwellings of the same type in
6 the same zone. Nothing in this section shall be construed to limit
7 the ability of a local public entity to fully enforce a local ordinance,
8 including, but not limited to, the imposition of fines and other
9 penalties associated with violations of local ordinances covered
10 by this section.

11 (e) No conditional use permit, zoning variance, or other zoning
12 clearance shall be required of a residential facility~~which~~ *that* serves
13 six or fewer persons~~which~~ *that* is not required of a family dwelling
14 of the same type in the same zone.

15 (f) Use of a family dwelling for purposes of a residential facility
16 serving six or fewer persons shall not constitute a change of
17 occupancy for purposes of Part 1. 5 (commencing with Section
18 17910) of Division 13 or local building codes. However, nothing
19 in this section is intended to supersede Section 13143 or 13143.6,
20 to the extent~~such~~ *that those* sections are applicable to residential
21 facilities providing care for six or fewer residents.

22 (g) For the purposes of this section, “family dwelling,” includes,
23 but is not limited to, single-family dwellings, units in multifamily
24 dwellings, including units in duplexes and units in apartment
25 dwellings, mobilehomes, including mobilehomes located in
26 mobilehome parks, units in cooperatives, units in condominiums,
27 units in townhouses, and units in planned unit developments.

28 (h) *Nothing in this section shall prohibit a local jurisdiction*
29 *from requiring a community care facility covered by Section 1566.9*
30 *to obtain a business license.*

31 SEC. 4. Section 1566.9 is added to the Health and Safety Code,
32 to read:

33 1566.9. Notwithstanding any other provision of this chapter,
34 a local jurisdiction that requires any type of business to obtain a
35 business license may require that a community care facility obtain
36 a business license if the facility is a group home that houses any
37 adult or juvenile sex offender who is under the supervision of the
38 Department of Corrections and Rehabilitation, or whose use of the
39 facility is required pursuant to a court order related to an offense
40 committed by the adult or juvenile.

1 SEC. 5. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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